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 PUBLIC KEY PARTNERS

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RICHARD J. WILLIAMS
 CLERK
 U.S. DISTRICT COURT
 NO. DIST. OF CA, S.J.



UNITED STATES DISTRICT COURT
 FOR THE NORTHERN DISTRICT OF CALIFORNIA

ROGER SCHLAFLY,

Plaintiff,

v.

PUBLIC KEY PARTNERS and
 RSA DATA SECURITY, INC.,

Defendants.

No. CV 94 20512 SW (PVT)

DEFENDANT PUBLIC KEY
 PARTNERS' SEPARATE STATEMENT
 OF UNDISPUTED FACTS IN SUPPORT
 OF MOTION FOR PARTIAL
SUMMARY JUDGMENT

Date: December 6, 1995

Time: 10:00 a.m.

Before: Hon. Spencer Williams

As an aid to the Court and preparatory to any request for a Joint Statement of Undisputed Facts under Local Rule 56-2, defendant Public Key Partners hereby submits the following statement of undisputed facts, together with references to supporting evidence, in support of its Motion for Partial Summary Judgment of Plaintiff's complaint.

UNDISPUTED MATERIAL FACT:

SUPPORTING EVIDENCE:

1. Schlafly has no, nor can he point to any cognizable damage theory. PKP's actions have not caused him any damage.

Schlafly Depo. pps. 171:19-172:21, 181:4-15, 487:25-489:13, 751:4-17, 804:12-805:9

2. Schlafly has no actionable evidence of threats or harassment by PKP.

Schlafly Depo. pps. 609:14 - 613:9

1 3. Schlafly has no evidence of PKP's
2 intent to violate Sherman and/ or Clayton
3 Antitrust Acts.

Schlafly Depo. pps. 741:25-742:2

4 4. Schlafly only has a personal opinion
5 regarding monopolizing intent. He has no
6 evidence of intent.

Schlafly Depo. pps. 321:8-322:16, 741:25-
742:2

7 5. Schlafly is only a cryptographic
8 software developer, and he has made no
9 attempt to enter the market or sell software
10 to end users.

Schlafly Depo. pps. 283:19-26, 743:3-5,
751:15-17, 753:11-18, 761:4-8

11 6. Schlafly literally took his \$2,000,000
12 damage claim "out of thin air."

Schlafly Depo. pps. 805:8-9

13 7. Schlafly is unable to point to any
14 concrete evidence of damage, and cannot
15 apportion any portion of his stated damages.

Schlafly Depo. pps. 804:9-806:23

16 8. ISC has made a conscious decision
17 not to join plaintiff in his lawsuit.

Schlafly Depo. pps. 703:14-19, 751:18-23

18 9. Schlafly has no evidence of any
19 anticompetitive effect on prices in the
20 cryptographic products market.

Schlafly Depo. pps. 729:23-730:13, 740:26-
741:17

21 Dated: October 6, 1995.



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